IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Dhanraj Vs. Smt. Durga

S.B.CR.MISC. PETITION NO.149/2005

DATE OF ORDER :: November 07, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

None present, for the petitioner.
Mr. Ramesh Purohit, for non-petitioner.

BY THE COURT:

This criminal misc. petition under section 482 Cr.P.C. is directed against the order dt. 7.8.2004 passed by the Sessions Judge, Pratapgarh, Distt. Chittorgarh (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dt. 11.6.2004 passed by the Judicial Magistrate, Chhoti Sadri (for short 'the trial court' hereinafter) was dismissed.

I have carefully gone through the memo of petition and the orders passed by the trial court as well as by the revisional

court.

Before the trial court, the petitioner had not disputed that the non-petitioner and three minor children, born out of the wedlock for whom the non-petitioner claimed monthly allowance of maintenance under section 125 Cr.P.C., are his legally wedded wife and children. The non-petitioner filed an application under section 125 Cr.P.C. on her own behalf and on behalf of her three minor children. The notice of the application was served on the petitioner. Thereafter, the petitioner appeared and filed the reply to the application under section 125 Cr.P.C. The non-petitioner produced her evidence before the trial court. On 22.7.2002, the non-petitioner completed her evidence. The matter was posted for evidence of the petitioner on 12.8.2002, 2.9.2002, 8.10.2002, 2.12.2002, 4.1.2003, 13.2.2003, 7.3.2003, 26.4.2003, 2.6.2003, 7.7.2003, 9.9.2003, 27.9.2003, 11.12.2003, 17.12.2003, 28.1.2004 and 10.3.2004. Despite several opportunities, the petitioner failed to lead any evidence and ultimately on 10.3.2004, his evidence was closed as on that day also the petitioner did not appear before the trial court and the trial court, on the basis of the evidence produced by the non-petitioner, granted monthly allowance of maintenance at the rate of Rs.800/- in favour of non-petitioner, who is wife of the petitioner and Rs.400/- each in favour of three minor children

born out of the wedlock and on careful perusal of the material available on record, in my view, the trial court was justified in granting monthly allowance of maintenance in favour of wife and three minor children of the petitioner.

The revisional court on consideration of the material on record of the trial court also came to the conclusion that the finding arrived at by the trial court is just and proper and in accordance with law. In my view, both the courts below concurrently found the non-petitioner and her three minor children entitled for maintenance. It cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any court.

No case for interference in the inherent jurisdiction is made out. The petition is, therefore, dismissed. Stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-